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IN THE SUPREME COURT
OF THE UNITED STATES

NO._____

----------X

J. C. FAIRLEY, ALVIN WILLIAMS, JAMES FLUKER, REV. WALTER L. RUSSELL, JAMES BONNE and STEPHEN LEE GRADY, on behalf of themselves and all other persons similarly situated,

Appellants,

-vs-

JOE T. PATTERSON, Attorney General of the State of Mississippi; W. V. SIGLER, ALBERT S. WOODS, JR., SELBY C. BOWLING, J.A.P. CARTER, JR. and HERBERT H. LEE, as members of the Board of Supervisors of Forrest County; MRS. D. O. SEGREST, MRS. FRED BLACKWELL, and G. C. SIMMONS, as County Election Commissioners for Forrest County,

Appellees.

----------X

----------X

LEVI MARSAW, III and MAMIE MAZIQUE, on behalf of themselves and all other persons similarly situated,

Appellants,

-vs-

JOE T. PATTERSON, Attorney General of the State of Mississippi; ARLIE C. WARREN, BOYD SOJOURNER, JAMES H. CARTER, J. W. BROWN and F. L. CALLON, as members of the Board of Supervisors of Adams County; ROBERT V. WOLCOTT, JAMES T. O'NEILL and ALMA D. MADDOX, as County Election Commissioners for Adams County,

Appellees.

----------X

JURISDICTIONAL STATEMENT

OPINIONS BELOW

The opinions of the United States District Court for the Southern District of Mississippi are not yet reported. The text of said opinions is contained in

Appendix A hereto.

JURISDICTION

(1) These proceedings seek declaratory judgments that Section 2870 of the Mississippi Code, as amended, comes within the purview of the Voting Rights Act of 1965 (42 U.S.C., Section 1973) and 42 U.S.C., Section 1971; permanent injunctions against the application and enforcement of said Section 2870 by certain county Boards of Supervisors; and permanent injunctions against the election of members of certain county Boards of Supervisors pursuant to or in accordance with the provisions of Section 2870, as amended, or any order of certain Boards of Supervisors until such time as the Voting Rights Act of 1965 has been complied

with, or the procedures set forth in Section 2870 prior to its amendment in 1966 followed.

Jurisdiction was conferred on the court below by 28 U.S.C., Sections 1343(3) and (4), and 2201 and 2202, and by 42 U.S.C., Sections 1971(d) and 1973(j) and (f). A district court of three judges was required to be convened by 28 U.S.C., Section 2281 and 42 U.S.C., Section 1973c.

(2) The judgment herein sought to be reviewed was entered in each case on October 5, 1967, and the Notice of Appeal in each case was filed on November 28, 1967, with the United States District Court for the Southern District of Mississippi.

(3) The Supreme Court has juris-

diction of this direct appeal pursuant to 28 U.S.C., Section 1253 and 42 U.S.C., Section 1973c.

(4) There are no cases specifically dealing with appeal pursuant to 28 U.S.C., Section 1253 and 42 U.S.C., Section 1973c from a three judge court decision pursuant to the Voting Rights Act of 1965 (42 U.S.C., Section 1973). This appeal fits so closely within the terms of the cited statutes, however, as to need no precedents to sustain jurisdiction. The last sentence of Section 5 of the Voting Rights Act of 1965 provides that "any action under this section shall be heard and determined by a court of three judges . . . and any appeal shall lie to the Supreme Court."

(5) Section 2870 of the Mississippi Code of 1942, prior to its amendment in 1966, may be found in volume 3 of the Mississippi Code, at pages 4-5. The 1966 amendment to Section 2870 is reported in the 1966 supplement to volume 3 of the Mississippi Code at pages 14-15. The text of this statute before and as amended is set forth in Appendix B.

QUESTIONS PRESENTED

(1) Whether the District Court erred:

(a) In finding that Section 2870 of the Mississippi Code, as amended by the 1966 session of the Mississippi Legislature does not come within the purview of and is not covered by Section 5 of the

Voting Rights Act of 1965 (42 U.S.C., Section 1973c) (hereinafter "Section 5") so as to require compliance with said Section 5 by the State of Mississippi and the counties involved in each of the cases herein on appeal, prior to enforcing or applying Section 2870 as amended; and

(b) In dismissing each of the complaints, thereby denying the relief requested therein.

(2) Whether, the November 7, 1967, election in each of the counties herein involved having been held in accordance with Section 2870 as amended (i.e., election for County Boards of Supervisors

having been held at large rather than by districts), this Court, if it finds that Section 5 of the Voting Rights Act of 1965 should have been complied with as aforesaid, should order an election of such County Boards of Supervisors pursuant to the provisions of Section 2870 prior to its amendment in 1966.

STATEMENT OF THE CASE

These cases deal solely with the applicability of Section 5 of the Voting Rights Act of 1965 to Section 2870 of the Mississippi Code. Each county in Mississippi is governed in important respects by a Board of Supervisors composed of five (5) members. Each county is divided into five (5) districts for purposes of election of certain county officials. Prior

having been held at large rather than by
district. This Court, if it finds that
Section 5 of the Voting Rights Act of 1965
should have been complied with, has adjo-
urned. Should there an election of such
County Boards of Supervisors pursuant to
the provisions of Section 2870 prior to

STATEMENT OF THE CASE

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sippi is governed in important respects by
a Board of Supervisors composed of five
(5) members. Each county is divided into
five (5) districts for purposes of elec-
tion of certain county officials. Prior

to May 27, 1966, each of the members of the Board of Supervisors in each of the Counties of Mississippi, including Adams and Forrest Counties (the counties bringing the appeal herein) were elected only by the qualified electors of one particular district, pursuant to Section 2870 of the Mississippi Code.

Effective May 27, 1966, the Legislature of Mississippi amended the aforesaid Section 2870 to provide that members of the County Board of Supervisors could, at each County's option, be elected at large, i.e., all the qualified electors of the county would be eligible to vote for each member of the Board of Supervisors, rather than by the means in force and effect November 1, 1964. Adams and

to May 27, 1956, each of the members of
the Board of Supervisors in each of the
Counties of Mississippi, including Adams
and Forrest Counties (the counties bring-
ing the appeal herein) were elected only
by the qualified electors of one particu-
lar district, pursuant to Section 2870 of
the Mississippi Code.

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of the County Board of Supervisors could
at each County's option, be elected at
large, i.e., all the qualified electors
of the county would be eligible to vote
for each member of the Board of Super-
visors, rather than by the means in force
and effect November 1, 1954. Adams and

Forrest Counties exercised such options and held the 1967 election of Supervisors at large.

The Voting Rights Act of 1965 (42 U.S.C., Section 1973) applies to Mississippi and provides in Section 5 that whenever a State or political subdivision thereof:

> "shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting different from that in force or effect on November 1, 1964," (42 U.S.C., Section 1973c)

such State or political subdivision cannot enforce or apply such change until it has either (1) instituted an action in the United States District Court for the District of Columbia for a declaratory

[illegible] exercised such options

[illegible] the 1967 election of Supervisors

at large.

The Voting Rights Act of 1965 (42

U.S.C., Section 1973) applies to States

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U.S.C., Section 1973c)

such State or political subdivision cannot

enforce or apply such change until it has

either (1) instituted an action in the

United States District Court for the

District of Columbia for a declaratory

judgment that

> "such qualification, prerequisite, standard, practice or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color" (42 U.S.C., Section 1973c)

and such judgment has been entered, or (2) submitted the change to the Attorney General of the United States and had no objection interposed by the Attorney General within 60 days after such submission.

Neither the State of Mississippi, nor any of its officials, nor Adams or Forrest counties, nor any of their officials has instituted any action in the United States District Court for the District of Columbia with respect to Section 2870 of the Mississippi Code, as

judgment that

"such qualification, prerequisite, standard, practice or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." (42 U.S.C. Section 1973c)

and such judgment has been entered, or

(2) submitted the change to the Attorney General of the United States and has not objection interposed by the Attorney General within 60 days after such submission.

Neither the State of Mississippi, nor any of its officials, nor Adams or Forrest Counties, nor any of their officials has instituted any action in the United States District Court for the District of Columbia with respect to Section 2870 of the Mississippi Code, as

amended, nor submitted such amended Section to the Attorney General of the United States.

Plaintiffs in each of the two suits herein seek to have the amendment to Section 2870 of the Mississippi Code declared such a change in qualification, prerequisite, standard, practice or procedure, within the purview of Section 5 of the Voting Rights Act of 1965, as to require defendants to comply with Section 5. The District Court in each of the cases held that the amendment did not come within the purview of and is not covered by the Voting Rights Act of 1965, and dismissed the complaints herein.

SUBSTANTIALITY OF QUESTIONS

The Voting Rights Act of 1965 (42

U.S.C., Section 1973) (hereinafter "Section 5") was designed to prevent states and political subdivisions with a history of avoiding the mandate of the Fifteenth Amendment to the Constitution of the United States from so doing, and to prevent such practices prior to their becoming effective.

The constitutionality of Section 5 has been upheld in South Carolina v. Katzenbach, 383 U.S. 301, 335 (1966):

> "Congress knew that some of the States covered by Section 4(b) of the Act had resorted to the extraordinary stratagem of contriving new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal court decrees (footnote omitted). Congress had reason to suppose that

> these States might try similar maneuvers in the future in order to evade the remedies for voting discrimination contained in the Act itself. Under the compulsion of these unique circumstances, Congress responded in a permissibly decisive manner (by enacting Section 5)."

Section 5 is triggered when, by its own provisions, there is any change in "any voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting different from that in force or effect on November 1, 1964 . . ." It is a fundamental precept of statutory construction that the words of a statute are to be given their ordinary meaning. The quoted words could hardly be broader in scope. This breadth of meaning is reinforced by the definition

of "voting" provided by Section 14(c)(1) of the Voting Rights Act of 1965 (42 U.S.C., Section 1973 l (c)(1)) as including "all action necessary to make a vote effective in any primary, special or general election . . ." (Emphasis added.) A broad, rather than a narrow interpretation, is given further support by the fact that Section 5 is meant to prevent not only denial by a state of the right to vote, but also abridgment of the right to vote.

The legislative history of Section 5 similarly shows that Section 5 was intended to cover a wide range of state provisions. The Attorney General of the United States testified that "two or three" types of state law could be written

out of the section, but "there are precious few, because there are an awful lot of things that could be started for the purpose of evading the 15th Amendment if there is a desire to do so." (Mr. Katzenbach, House Hearings, p. 95) Earlier in the hearing, he gave examples of changes which would not be covered -- changes in voting age, residence requirements, and balloting procedures such as changing from paper ballot to machines (he expressed some reservations if the change was from machines to paper). (Mr. Katzenbach, House Hearings, pp. 61-62) In the Senate hearings, the Attorney General accepted a change by Senator Fong to include in the section the language "standards" and "practices". (Senate Hearings, p. 192)

The Senator thought the change would broaden the section to make it all-inclusive. The Attorney General thought the section all-inclusive even without the change. (Senate Hearings, pp. 191-92)

The overall purpose of the Voting Rights Act and the specific purpose of Section 5 was to eliminate and prohibit practices and procedures which would perpetuate the effects of discrimination in the election process. In Section 5, Congress sought to prevent state legislatures from raising new barriers of discrimination. Past experience had defined the need for such a remedy.

> "Mr. Katzenbach: The justification is simply this: Our experience in the areas that would be covered by this Bill has

> been such as to indicate frequently on the part of state legislatures a desire in a sense to outguess the Congress of the United States. I refer, for example, to the new voter qualifications that have been put into statutes of Louisiana, Mississippi and Alabama following the enactment of the 1964 Act which made things more difficult for people to vote . . . .
>
> "The same thing was true, as the Chairman may recall, in Louisiana at the time of the initial school desegregation, where the legislature passed I don't know how many laws in the shortest period of time. Every time the judge issued a decree, the legislature . . . passed a law to frustrate that decree." (House Hearings, p. 60)

In the time it would take for the Government to learn about such newly adopted procedures (Mr. Marshall, House Hearings, p. 72) and litigate their

validity, the new statutes would have done their damage (Mr. Katzenbach, Senate Hearings, p. 237). Thus, the remedy of Section 5 was, basically, to require federal scrutiny of such statutes in the area of voting before they could be put into effect.

To those familiar with the past history of discriminatory voting legislation in Mississippi, the need for such protection as Section 5 provides is readily apparent. See, e.g., United States v. Mississippi, 380 U.S. 128, 135-136 (1965):

> "It is apparent that the complaint . . . charged a long standing, carefully prepared, and faithfully observed plan to bar Negroes from voting in the State of Mississippi, a plan which

> the registration statistics . . . would seem to show had been remarkably successful."

Congress and the courts have consistently noted the pattern of discrimination in Mississippi and the purpose behind its voting legislation. The Supreme Court in commenting on the Voting Rights Act of 1965 in South Carolina v. Katzenbach, supra, said:

> "The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting, which has infected the elector process in parts of our country for nearly a century." Id. at 308.

and again,

> "Congress felt itself confronted by an insidious and pervasive evil which had been perpetuated in

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308

and again

"Congress felt itself con-
fronted by an insidious
and pervasive evil which
had been perpetuated in

> certain parts of our country through unremitting and ingenious defiance of the Constitution." Id. at 309.

and,

> "(S)ome of the States affected have merely switched to discriminatory devices not covered by the federal decrees or have enacted difficult new tests designed to prolong the existing disparity between white and Negro registration (specifically referring in n. 19 at this point to the Mississippi Legislature)." Id. at 314.

Having proved the overwhelming history of past problems of discrimination and legislative purpose, it is hornbook law that a presumption arises that facts or conditions once proven are deemed to continue to exist unless proven otherwise. Allstate Finance Corp. v. Zimmerman, 330

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Allstate Finance Corp. v. Zimmerman, 330

F.2d 740 (5th Cir. 1964); NLRB v. Piqua Munising Wood Prods. Co., 109 F.2d 552 (6th Cir. 1940); 2 Wigmore, Evidence, Section 437 (3d ed. 1940).

This doctrine has been specifically adopted in discrimination cases as in Cassell v. Texas, 339 U.S. 282, 293 (1950), where Mr. Justice Reed stated:

> "If one factor is uniform in a continuing series of events that are brought to pass through human intervention, the law would have to have the blindness of indifference rather than the blindness of impartiality not to attribute the uniform factor to man's purpose."

Thus, in Sellers v. Trussell, 253 F. Supp. 915 (M. D. Ala. 1966), the only case to consider Section 5 to date, in

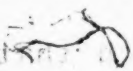
concluding that an Alabama election statute had a purpose of racial discrimination, Judge Johnson gave practical effect to the foregoing presumption when he discussed the history of voting discrimination against Negroes in Alabama and reasoned that:

> "Any determination in this case of legislative motive must be viewed in this light. Viewing Act 536 in such light, leads me . . . to the firm conclusion that its introduction and passage was racially motivated." 253 F. Supp. at 919.

Taking away from the qualified electors of certain counties in the state their right to vote by districts is a change in standard, practice or procedure with respect to voting, and is well within the

purview of Section 5. This is such an "abridgment" of the right to vote as was found in Sellers v. Trussell, supra, to be within the contemplation of Section 5.

In Sellers, Judge Rives concluded that a statute extending the terms of county commissioners in Bullock County, Alabama, from 4 to 6 years was covered by Section 5 and, because Alabama had failed to comply with the requirements of Section 5, was in violation thereof. (Judge Johnson found it unnecessary to reach that question, and Judge Grooms dissented.) Suspension of the right to vote for two years is no more of a change than the dilution of the effectiveness of one's vote herein. If the amendment in question herein is not held to be within the



language of the Voting Rights Act of 1965, then the Act will be a dead-letter law in that it will provide no remedy against discrimination and abuse of the elective processes except in the most simple and obvious case.

It take no great imagination to conceive of the potential for racial discrimination which underlies the amendment to Section 2870 of the Mississippi Code, making the post of County Supervisor elective county-wide rather than by districts.

After the invalidation of the poll tax requirements to voting, and after federal registrars were sent to Mississippi, large numbers of previously unregistered Negroes were able to register to vote. For the first time since Reconstruction,

25.

a substantial number of Negro citizens of the State of Mississippi have attempted to or have actually become candidates for county offices. Negro citizens have become aware of their voting power to elect or to swing an election for the candidates of their choice.

The amendment to Section 2870 could be found to have the purpose and effect of denying or abridging the right to vote on account of race or color, by preventing the election of Negro candidates to county Boards of Supervisors by allowing members of county Boards to be elected at large in counties in which there is a county-wide white voting majority, but in which there is a Negro voting majority in one or more individual super-

visors' districts.

Similarly the amendment could make it more difficult for Negro voters to swing an election for a candidate of their choice in that it forces them (a large number of whom are illiterate) to bear in mind the names of five candidates for supervisor rather than one. With respect to illiterates, the courts have said in discussing the Voting Rights Act of 1965, "We agree that the obvious sense of Congress is to assure not just registration, but the full exercise of the right to vote itself. Indeed, the Act defines 'vote' or 'voting' in terms of any and 'all action necessary to make a vote effective in any . . . election . . . /including/ . . . casting a ballot'."

United States v. Mississippi, 256 F. Supp. 344, 348 (S. D. Miss. 1966) (Three Judge Court).

Other potentials for discrimination in the amendment to Section 2870 could readily be imagined.

It is to be kept in mind that appellants herein are not asking that the amendment itself be declared unconstitutional. They are merely asking that the state or counties involved comply with the Voting Rights Act of 1965, under which either the Attorney General of the United States or the District Court for the District of Columbia may make a determination as to the discriminatory purpose and effect of the amendment prior to its becoming effective. The amendment in question is

exactly the kind of change which the Voting Rights Act contemplated should be reviewed in order to prevent devious dilution and withdrawal of the right to vote on account of race or color.

It is no accident that Section 5 places the burden of proof of nondiscriminatory purpose and effect upon the covered State. From the foregoing discussion, one can reasonably conclude that Section 2870 might well in fact be used to discriminate against the Negro, for racial discrimination in a State such as Mississippi has been so pervasive and has so infected the processes of Government, especially in the area of voting rights. See, e.g., United States v. Mississippi, 359 F.2d 103 (5th Cir. 1966); United States v.

Ramsey, 353 F.2d 650 (5th Cir. 1965); United States v. Lynd, 349 F.2d 785 (5th Cir. 1965); United States v. Ward, 345 F. 2d 857 (5th Cir. 1965).

Therefore, it is fitting that the State of Mississippi assume the burden of demonstrating that Section 2870 "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color."

The scope of the language "voting qualification, or prerequisite to voting, or standard, practice or procedure with respect to voting" has never been construed by an appeal court. An authoritative construction of the above language is essential to the validity of the Voting Rights Act and protection of the right to

vote and the strength of that vote.

Date: January 24, 1968

Respectfully submitted,

DENISON RAY
LAWRENCE ASCHENBRENNER
MARTHA M. WOOD
233 North Farish Street
Jackson, Mississippi 39201

Attorneys for Appellants

APPENDIX A

IN THE UNITED STATES

DISTRICT COURT FOR THE

SOUTHERN DISTRICT

OF MISSISSIPPI

WESTERN DIVISION

LEVI MARSAW, III, ET AL PLAINTIFFS

VS. CIVIL ACTION NO. 1201W

JOE T. PATTERSON ET AL DEFENDANTS

O R D E R

This cause came on for hearing on the Complaint, the Answer and argument of counsel, it being stipulated in open court that this hearing would be considered as a final hearing on the merits, and all parties having announced that no factual issues are involved and no testimony or evidence was to be offered, the sole

question for determination being whether or not Section 2870 of the Mississippi Code of 1942, as amended by the legislature at the regular session of 1966, comes within the purview of or is covered by Section 5 of the Voting Rights Act of 1965, being now Section 1973(c) of Title 42, U.S.C.

It is the opinion of the Court that said Section 2870, as amended by the legislature of Mississippi at its regular session of 1966, does not come within the purview of and is not covered by Title 42, Section 1973(c) U.S.C., and that plaintiffs are entitled to no relief in this action.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the injunction prayed for in

this action be, and the same is, hereby, denied and the Complaint is dismissed at the cost of plaintiffs.

ORDERED AND ADJUDGED, this the 5th day of October, 1967.

/s/ Dan M. Russell, Jr.
UNITED STATES DISTRICT JUDGE

Acting For and on Behalf of The Court

A TRUE COPY, I HEREBY CERTIFY.
ROBERT C. THOMAS,
CLERK

BY:
/s/ Ruby L. Short
Deputy Clerk

Dated 10/8/67

* * * * * * * * *

* * * * * * * * * *

IN THE UNITED STATES

DISTRICT COURT FOR THE

SOUTHERN DISTRICT

OF MISSISSIPPI

HATTIESBURG DIVISION

J. C. FAIRLEY, ET AL PLAINTIFFS

VS. CIVIL ACTION NO. 2205H

JOE T. PATTERSON, ET AL. DEFENDANTS

ORDER

This cause came on for hearing on the Complaint, the Answer and argument of counsel, it being stipulated in open court that this hearing would be considered as a final hearing on the merits, and all parties having announced that no factual issues are involved and no testimony or evidence was to be offered, the sole question for determination being whether

or not Section 2870 of the Mississippi Code of 1942, as amended by the legislature at the regular session of 1966, comes within the purview of or is covered by Section 5 of the Voting Rights Act of 1965, being now Section 1973(c) of Title 42, U.S.C.

It is the opinion of the Court that said Section 2870, as amended by the legislature of Mississippi at its regular session of 1966, does not come within the purview of and is not covered by Title 42, Section 1973(c) U.S.C., and that plaintiffs are entitled to no relief in this action.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the injunction prayed for in this action be, and the same is, hereby,

denied and the Complaint is dismissed at the cost of plaintiffs.

ORDERED AND ADJUDGED, this the 5th day of October, 1967.

/s/ Dan M. Russell, Jr.
UNITED STATES DISTRICT JUDGE

Acting For and on Behalf of The Court

* * * * * *

APPENDIX B

"Section 2870.* Districts and boundaries.

Each county shall be divided into five (5) districts, with due regard to equality of population and convenience of situation for the election of members of the boards of supervisors, but the districts as now existing shall continue until changed. The qualified electors of each district shall elect, at the next general election, and every four (4) years thereafter, in their district, one (1) member of the board of supervisors; and the board, by unanimous vote of all members elected or when so ordered by a vote of the majority of the qualified electors of the districts affected voting in an election as hereinafter provided, may at any time, except as hereinafter provided, change or alter the district, the boundaries to be entered at large in the minutes of the proceedings of the board.

The board, upon the petition of twenty-five per cent (25%) of the qualified electors of the county, asking that the districts of the county be changed, or altered, and setting out in such petition the changes, or alterations desired, shall call a special election for a date which shall be not less than thirty (30), nor more than sixty (60) days from the date of the presentation of the petition to the assembled board. A majority of the qualified electors of the county shall determine the issue of such election.

Provided, however, that in any county in the state having a supervisors district containing more than fifty per cent (50%) of the population of the county according to the last federal census and/or more than fifty per cent (50%) of the assessed valuation of the county, the issue of the election heretofore provided for shall be determined by a majority of those participating in said election.

~~Provided-further,-however,-that-in-any-county-in the-state-bordering-on-the Gulf-of-Mexico-or-Mississippi Sound-and-having-a-population in-excess-of-eighty-thousand (80,000)-according-to-the last-federal-census,-the issue-of-election-heretofore-provided-for-shall-be determined-by-a-majority-of the-qualified-electors-of-the county,-and-if-such-majority fail-to-vote-affirmatively, no-new-petition-shall-be considered-for-four-(4)-years.--Each-such-election shall-be-based-upon-a-petition-of-twenty-five-per cent-(25%)-of-the-qualified electors-of-the-county,-and to-which-petition-shall-be attached-a-map-or-plat-defining-the-boundaries-of each-beat-as-proposed-by said-map-or-plat,-and-the election-thereon-shall-be on-such-proposal.~~

~~And-the-board,-whenever a-majority-of-the-qualified electors-of-the-county-shall have-voted-to-change-or-alter the-existing-districts-to these-set-forth-and-described~~

~~in-the-petition,-shall-at its-first-meeting-thereafter establish-said-proposed districts-by-order-on-its minutes,-to-be-effective-on the-first-day-of-January following,-and-in-default thereof,-may-be-commanded-to do-so-by-writ-of-mandamus.~~

~~When-the-districts-are changed,-by-the-qualified electors-in-an-election-as aforesaid,-the-board,-of-its own-motion,-shall-not-change or-alter-said-districts-within-four-(4)-years-thereafter.~~

The board of supervisors of any county may adopt an order providing that all the qualified electors of the county shall be eligible to vote for each member of the board of supervisors but each candidate shall be a resident of the district which he proposes to represent; said order to be adopted and published in a newspaper having general circulation in the county at least twelve (12) months prior to the next general election wherein said

supervisors are elected.

If twenty per cent (20%) of the qualified electors of the county shall present the board of supervisors with a petition objecting to such alternate method within sixty (60) days after the adoption and final publication of any such alternative method, then the board of supervisors shall call an election after publishing notice thereof in a newspaper published in the county once a week for at least three (3) weeks prior to such election and the question on the ballot shall be whether the entire electorate of the county shall be required to vote for the members of the board of supervisors at large, or whether the qualified electors in the said districts shall vote for the candidate in that district. If the majority of those voting vote that all the qualified electors shall be eligible to vote for candidates in each district, then thereafter

supervisors are elected.

11. twenty per cent (20%) of the qualified electors of the county shall present the board of supervisors with a petition objecting to such alternate method within sixty (60) days after the adoption and final validation of any such alternative method, then the board of supervisors shall call an election after publishing notice thereof in a newspaper published in the county once a week for at least three (3) weeks prior to such election and the question on the ballot shall be whether the county's electorate of the county shall be required to vote for the members of the board of supervisors at large or whether the qualified electors in the said districts shall vote for the candidate in that district. If the majority of those voting vote that all the qualified electors shall be eligible to vote for candidates in each district, then thereafter

all elections for members of boards of supervisors shall so be held. If not, members of the boards of supervisors shall continue to be elected by the electorate of their respective districts and the board of supervisors shall not be permitted to adopt this alternative method of electing members of boards of supervisors again until two (2) years have transpired.

This act shall not be construed to effect any supervisors now holding office until the expiration and end of his present term of office."

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*Material crossed out was deleted, and material underlined was added.

all elections for members of boards of supervisors shall also be held. If not, members of the boards of supervisors shall continue to be elected by the districts of their respective districts and the board of supervisors shall not be permitted to adopt this alternative method of electing members of boards of supervisors again until two (2) years have transpired.

This act shall not be construed to affect any supervisor now holding office until the expiration and end of his present term of office.

Material crossed out was deleted, and material underlined was added.

CERTIFICATE OF SERVICE

I hereby certify that I have this day mailed via United States mail, postage prepaid, a copy of the foregoing Jurisdictional Statement of Appellants to:

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January , 1968.

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